

J. Stephen Peek, Esq.  
 Nevada Bar No. 1758  
 Brad M. Johnston, Esq.  
 Nevada Bar No. 8515  
 David J. Freeman, Esq.  
 Nevada Bar No. 10045  
 HOLLAND & HART LLP  
 3800 Howard Hughes Parkway, 10th Floor  
 Las Vegas, Nevada 89169  
 (702) 669-4600  
 (702) 669-4650 – fax  
[speek@hollandhart.com](mailto:speek@hollandhart.com)  
[bjohnston@hollandhart.com](mailto:bjohnston@hollandhart.com)  
[dfreeman@hollandhart.com](mailto:dfreeman@hollandhart.com)

*Attorneys for Plaintiffs NAPA VALLEY I, LLC and  
 NAPA VALLEY II, LLC*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

IN RE: INTERNAL REVENUE SERVICE  
 § 1031 TAX DEFERRED EXCHANGE  
 LITIGATION

MDL Docket No. 1878  
 Case No.: 07-cv-01394-RCJ-(LRL)

Sorrell, et al. v. Southwest Exchange, Inc.,  
 et al.

SORRELL, et al. and SOUTHWEST  
 EXCHANGE, INC, et al.,  
 Plaintiffs,

Case No.: 08-CV-00761-RCJ-(LRL)

vs.

SNELL & WILMER, LLP and PATRICK  
 G. BYRNE,  
 Defendants.


**THE NAPA VALLEY PLAINTIFFS'  
 REQUEST FOR EXCLUSION FROM  
 WAVE V SETTLEMENT CLASS**

Plaintiffs Napa Valley I, LLC (“Napa I”) and Napa Valley II, LLC (“Napa II”) (Napa I and Napa II are collectively referred to herein as the “Napa Valley Plaintiffs”), by and through their undersigned counsel of record, Holland & Hart LLP, hereby opt-out and request to be excluded from the settlement class (“Wave V Settlement Class”) under the settlement agreements between Defendants Carolina Casualty Company (“Carolina”), RSUI Indemnity Company (“RSUI”), Medicor, Ltd. (“Medicor”), Snell & Wilmer, LLP (“Snell”) and Patrick G. Byrne (“Byrne”) (Carolina, RSUI, Medicor, Snell and Byrne are collectively referred to hereinafter as the “Wave V Settling Defendants”) and Plaintiffs (the “Wave V Settlement”) in

1 the above-captioned matters.

2 Pursuant to this Court's order granting preliminary approval of the Wave V Settlement, a  
3 request for exclusion from the Wave V Settlement Class must be served upon counsel for the  
4 Plaintiffs and the Wave V Settling Defendants. Such notice has been sent to Plaintiffs' counsel  
5 and counsel for the Wave V Settling Defendants; therefore, the Napa Valley Plaintiffs hereby  
6 opt-out of and request to be excluded from the Wave V Settlement Class. Attached hereto as  
7 **Exhibit "A"** is the notice sent to Plaintiffs' counsel and counsel for the Wave V Settling  
8 Defendants. Although the Napa Valley Plaintiffs are opting-out and excluding themselves from  
9 the Wave V Settlement Class, the Napa Valley Plaintiffs have agreed to the Wave V Settlements  
10 with the Wave V Settling Defendants, agree to be bound by the Wave V Settlements, and have  
11 obtained or will obtain payment of their share of the settlement proceeds through the action  
12 styled, In Re: Receivership of Southwest Exchange, Inc. and Consolidated Litigation, Case No.  
13 A535439, pending in the Eighth Judicial District Court of the State of Nevada in and for Clark  
14 County, Nevada, Hon. Elizabeth Gonzalez presiding.

15 DATED this 10th day of May, 2010.

16  
17 

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19 Brad M. Johnston, Esq.  
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21 HOLLAND & HART LLP  
22 3800 Howard Hughes Parkway, 10th Floor  
23 Las Vegas, Nevada 89169

24 *Attorneys for Plaintiffs NAPA VALLEY I, LLC and*  
25 *NAPA VALLEY II, LLC*  
26  
27  
28

Holland & Hart LLP  
3800 Howard Hughes Parkway, Tenth Floor  
Las Vegas, Nevada 89169

**CERTIFICATE OF SERVICE VIA CM/ECF**

I hereby certify that on this 10th day of May, 2010, I did serve, via Case Management/Electronic Case Filing, a copy of the above and foregoing **THE NAPA VALLEY PLAINTIFFS' REQUEST FOR EXCLUSION FROM WAVE V SETTLEMENT CLASS.**

  
An employee of HOLLAND & HART LLP

Holland & Hart LLP  
3800 Howard Hughes Parkway, Tenth Floor  
Las Vegas, Nevada 89169

## **EXHIBIT A**

**HOLLAND & HART** <sup>LLP</sup>  
THE LAW OUT WEST®



**David J. Freeman**  
Phone (702) 222-2511  
dfreeman@hollandhart.com  
72159-0001

May 10, 2010

**VIA U.S. MAIL, ELECTRONIC MAIL, AND WIZNET**

Robert L. Brace, Esq.  
Michael P. Denver, Esq.  
Hollister & Brace  
P.O. Box 630  
Santa Barbara, CA 93102  
[RLBrace@hbsb.com](mailto:RLBrace@hbsb.com)  
[mpdenver@hbsb.com](mailto:mpdenver@hbsb.com)

Thomas G. Foley, Jr., Esq.  
Robert A. Curtis, Esq.  
Foley Bezek Behle & Curtis, LLP  
15 West Carrillo Street  
Santa Barbara, CA 93101  
[tfoley@foleybezek.com](mailto:tfoley@foleybezek.com)  
[rcurtis@foleybezek.com](mailto:rcurtis@foleybezek.com)

Anthony A. Zmaila, Esq.  
Anthony A. Zmaila Limited PLLC  
265 East Warm Springs Rd. Suite 100  
Las Vegas, Nevada 89119  
[tony@aaznevada.com](mailto:tony@aaznevada.com)

Dennis M Prince  
Prince & Keating, LLP  
3230 S Buffalo Dr  
Suite 108  
Las Vegas, NV 89117  
[aebinger@princekeating.com](mailto:aebinger@princekeating.com)

Jennifer D. McKee, Esq.  
Ryan A. Loosvelt, Esq.  
Duane Morris LLP  
701 Bridger Avenue, Suite 670  
Las Vegas, Nevada 89101  
[jdmckee@duanemorris.com](mailto:jdmckee@duanemorris.com)  
[rloosvelt@duanemorris.com](mailto:rloosvelt@duanemorris.com)

Kenneth M. Webster, Esq.  
David P. Ferrainolo, Esq.  
Hall Prangle & Schoonveld, LLC  
777 North Rainbow Blvd., Suite 225  
Las Vegas, Nevada 89107  
[kwebster@hpslaw.com](mailto:kwebster@hpslaw.com)  
[dferrainolo@hpslaw.com](mailto:dferrainolo@hpslaw.com)

Jeffrey D. Prol, Esq.  
Lowenstein Sandler PC  
65 Livingston Avenue  
Roseland, New Jersey 07068  
[jprol@lowenstein.com](mailto:jprol@lowenstein.com)

Dennis L. Kennedy  
Craig A. Henderson  
Bailey Kennedy  
8984 Spanish Ridge Ave  
Las Vegas, NV 89148-1302  
[dkennedy@baileykennedy.com](mailto:dkennedy@baileykennedy.com)

**Holland & Hart** <sup>LLP</sup>

Phone [702] 669-4600 Fax [702] 669-4650 [www.hollandhart.com](http://www.hollandhart.com)

3800 Howard Hughes Parkway 10th Floor Las Vegas, Nevada 89169

Denver Aspen Boulder Colorado Springs Denver Tech Center Billings Boise Cheyenne Jackson Hole Las Vegas Reno Salt Lake City Santa Fe Washington, D.C. ♻

**HOLLAND & HART**  
THE LAW OUT WEST



James P. Fogelman  
Lindsey Blenkhorn  
Sarah R. Wetzstein  
Gibson, Dunn & Crutcher, LLP  
333 S. Grand Ave.  
Los Angeles, CA 90071  
[jfogelman@gibsondunn.com](mailto:jfogelman@gibsondunn.com)  
[lblenkhorn@gibsondunn.com](mailto:lblenkhorn@gibsondunn.com)  
[swetzstein@gibsondunn.com](mailto:swetzstein@gibsondunn.com)

William P. Bila, Esq.  
Neil E. Holmen, Esq.  
Ryan Rodman, Esq.  
Walker Wilcox Matousek LLP  
225 W. Washington Street, Suite 2400  
Chicago, Illinois 60606  
[wbila@wwmlawyers.com](mailto:wbila@wwmlawyers.com)  
[nholmen@wwmlawyers.com](mailto:nholmen@wwmlawyers.com)  
[rrodman@wwmlawyers.com](mailto:rrodman@wwmlawyers.com)

Steve L. Morris  
Ryan M. Lower  
Morris Peterson  
900 Bank Of America Plaza  
300 South Fourth Street  
Las Vegas, NV 89101  
[sm@morrislawgroup.com](mailto:sm@morrislawgroup.com)

**Re: *In Re: Internal Revenue Service § 1031 Tax Deferred Exchange Litigation*  
United States District Court Case No. 2:07-cv-01394-RCJ-LRL**

***Sorrell, et al. and Southwest Exchange, Inc. v. Snell & Wilmer, et al.*  
United States District Court Case No. 2:08-CV-00761-RCJ-(LRL)**

Dear Counsel:

This firm represents Plaintiffs Napa Valley I, LLC ("Napa I") and Napa Valley II, LLC ("Napa II") (Napa I and Napa II are collectively referred to herein as the "Napa Valley Plaintiffs"), and I am writing to you on their behalf in response to the Notice of Wave V Settlements with Defendants Carolina Casualty Company ("Carolina"), RSUI Indemnity Company ("RSUI"), Medicor, Ltd. ("Medicor"), Snell & Wilmer, LLP ("Snell") and Patrick G. Byrne ("Byrne") (Carolina, RSUI, Medicor, Snell and Byrne are collectively referred to hereinafter as the "Wave V Settling Defendants") received from Mr. Brace on or about April 29, 2010.

The Napa Valley Plaintiffs are exercising their right to opt-out and be excluded from the Wave V settlement class; however, the Napa Valley Plaintiffs remain a party to and bound by the Wave V settlement agreements with the Wave V Settling Defendants. The Napa Valley Plaintiffs have obtained or will obtain their share of the Wave V settlement proceeds through the State court action currently pending before Judge Gonzalez and/or the Receiver and/or the Qualified Settlement Fund.

May 10, 2010  
Page 3

HOLLAND & HART<sup>LLP</sup>  
THE LAW OUT WEST



Consistent with the foregoing notice, the Napa Valley Plaintiffs will be filing the enclosed *Request for Exclusion from Wave V Settlement Class* in the Federal court actions pending before Judge Jones.

If you have any questions concerning the foregoing, please do not hesitate to contact me at (702) 669-4631.

Respectfully,

A handwritten signature in black ink, appearing to read 'DJF', followed by a horizontal line.

David J. Freeman  
for Holland & Hart LLP

DJF/dmb  
Enclosure

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J. Stephen Peek, Esq.  
 Nevada Bar No. 1758  
 Brad M. Johnston, Esq.  
 Nevada Bar No. 8515  
 David J. Freeman, Esq.  
 Nevada Bar No. 10045  
 HOLLAND & HART LLP  
 3800 Howard Hughes Parkway, 10th Floor  
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 (702) 669-4600  
 (702) 669-4650 – fax  
[speek@hollandhart.com](mailto:speek@hollandhart.com)  
[bjohnston@hollandhart.com](mailto:bjohnston@hollandhart.com)  
[dfreeman@hollandhart.com](mailto:dfreeman@hollandhart.com)

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 NAPA VALLEY II, LLC*

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15 DATED this 10th day of May, 2010.

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23 Las Vegas, Nevada 89169

24  
25 *Attorneys for Plaintiffs NAPA VALLEY I, LLC and*  
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28

Holland & Hart LLP  
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An employee of HOLLAND & HART LLP

Holland & Hart LLP  
3800 Howard Hughes Parkway, Tenth Floor  
Las Vegas, Nevada 89169

## Dineen Bergsing

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**From:** Dineen Bergsing  
**Sent:** Monday, May 10, 2010 3:13 PM  
**To:** 'RLBrace@hbsb.com'; 'mpdenver@hbsb.com'; 'jdmckee@duanemorris.com';  
'rloosvelt@duanemorris.com'; 'tfoley@foleybezek.com'; 'rcurtis@foleybezek.com';  
'kwebster@hpslaw.com'; 'dferrainolo@hpslaw.com'; 'tony@aaznevada.com';  
'jprol@lowenstein.com'; 'aebinger@princekeating.com'; 'dkennedy@baileykennedy.com';  
'jfogelman@gibsondunn.com'; 'lblekhorn@gibsondunn.com'; 'swetzstein@gibsondunn.com';  
'wbila@wwmlawyers.com'; 'nholmen@wwmlawyers.com'; 'rrodman@wwmlawyers.com';  
'sm@morrislawgroup.com'  
**Cc:** Brad Johnston; David Freeman  
**Subject:** Bassham/SW Exchange - Napa Valley Plaintiffs' Opt Out Letter  
**Attachments:** Untitled.PDF

Counsel:

Please see attached Napa Valley Plaintiffs' Opt Out Letter.

### Dineen M. Bergsing

*Legal Assistant to J. Stephen Peek,  
Justin C. Jones, and David J. Freeman*  
Holland & Hart LLP  
3800 Howard Hughes Parkway, 10th Floor  
Las Vegas, Nevada 89169  
(702) 669-4600 - Main  
(702) 222-2521 - Direct  
(702) 669-4650 - Fax  
E-mail: [dbergsing@hollandhart.com](mailto:dbergsing@hollandhart.com)



**CONFIDENTIALITY NOTICE:** This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.

5/10/2010